

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

This application has been reviewed in light of the Advisory Action and Office Action of the United States Patent and Trademark Office dated October 15, 2004 and July 14, 2004, respectively. Claims 1-30 are currently pending in the application. As indicated above, Claims 1 and 13 have been amended and new Claims 29-30 have been added.

In the Office Action, the Examiner has again rejected Claims 1 and 13 under 35 U.S.C. § 103(a) as being unpatentable over applicants' admitted prior art in view of *Hughes et al.* (U.S. 4,730,307), Claims 3-5, 9-12, 15-17, and 21-28 under 35 U.S.C. § 103(a) as being unpatentable over applicants' admitted prior art and *Hughes* in view of *Scott et al.* (6,154,486), Claims 2 and 14 under 35 U.S.C. § 103(a) as being unpatentable over applicants' admitted prior art and *Hughes*, and further in view of *Nakamura et al.* (U.S. 6,314,090), and Claims 6-8 and 18-20 under 35 U.S.C. § 103(a) as being unpatentable over applicants' admitted prior art, *Hughes* and *Scott* in view of *Szczutkowski et al.* (U.S. 4,187,146).

As stated above, the Examiner has rejected Claims 1 and 13, the independent claims of the present application, under 35 U.S.C. § 103(a) as being unpatentable over applicants' admitted prior art in view of *Hughes*. Specifically, the Examiner asserts that applicants' admitted prior art discloses all the elements of Claims 1 and 13 except for intermittently transmitting a preamble signal during a preamble interval prior to a transmission interval of a reverse access channel message, which is allegedly disclosed in *Hughes*.

Claim 1 recites a preamble generator for generating a preamble signal to be transmitted intermittently in order to reduce interference on other reverse link channels during a preamble interval, wherein *the preamble interval includes a non-transmission interval*. However, it is respectfully submitted that the combination of prior art FIGs. 1-2 of the present application and *Hughes*, as suggested by the Office Action, fails to show a preamble generator for generating a

preamble signal to be transmitted intermittently in order to reduce interference on other reverse link channels during a preamble interval, wherein *the preamble interval includes a non-transmission interval* for the following reasons.

First, the Office Action's conclusion of obviousness is based on improper hindsight reasoning. More specifically, the motivation to combine the references, i.e., "in order *to shorten the preamble transmission interval*" as suggested in the Final Office Action of July 24, 2004, is *not* found in the references themselves. That is, *Hughes* fails to teach or fairly suggest the motivation to combine the references "in order to shorten the preamble transmission interval." Rather, *Hughes* teaches that the intended purpose of having a preamble with a "gap long enough to enable receiving BIUs to reset for receipt of a new packet" is to enable the aforesaid *resetting*.

Further, the description of the system of FIGs. 1-2 of the present application is silent as to any shortening of a preamble transmission interval. Applicants respectfully submit that the references fail to teach a motivation to combine the references "in order to shorten the preamble transmission interval" as suggested in the Final Office Action. Since the references fail to teach or fairly disclose the suggested motivation for combining in the Office Action, Applicants respectfully submit that the Office Action's conclusion of obviousness is based on improper hindsight reasoning. If the Office Action is relying on other secondary references to provide the teaching for combining the references, Applicants respectfully request its production for the record.

Second, it is respectfully submitted that the references themselves do *not* teach or reasonably suggest a motivation to combine the references. *Hughes* teaches that "each packet has a preamble with a gap long enough to enable receiving BIUs to reset for receipt of a new packet" (See Abstract at lines 8-10; column 2, lines 55-58; and column 8, lines 32-34). However, the description of the system of FIGs. 1-2 of the present application is silent as to the resetting requirement of *Hughes*.

Further, it is respectfully submitted that the Office Action does not point out why it would be advantageous to have a resetting feature in the system of FIGs. 1-2 of the present application.

Accordingly, absent any apparent resetting requirement in FIGs. 1-2 of the present application or any apparent advantage of having such feature therein, it is respectfully submitted that it would *not* have been obvious to a person of ordinary skill in the art to apply the teaching of *Hughes* (i.e., each packet has a preamble with a gap long enough to enable receiving BIUs to reset for receipt of a new packet.”) to the system of FIGs 1-2 of the present application for the purpose of enabling receiving BIUs to reset for receipt of a new packet.

Third, as to the statement in the Office Action that “*Hughes* teaches the preamble signal transmitted intermittently in order to reduce interference on other reverse link channels during a preamble interval prior to a transmission interval of a message,” Applicants respectfully disagree. More specifically, it is respectfully submitted that *Hughes* does *not* teach a preamble signal transmitted intermittently *in order to reduce interference* on other reverse link channels during a preamble interval prior to a transmission interval of a message. Rather, *Hughes* teaches that the intended purpose of having a preamble with a “gap long enough to enable receiving BIUs to reset for receipt of a new packet” is to enable the aforesaid resetting. Applicants respectfully submit the teaching of a preamble signal transmitted intermittently *in order to reduce interference* on other reverse link channels during a preamble interval is Applicant’s own, as shown in FIG. 11 of the present application, and, if any, reliance in the Office Action on such Applicant’s own disclosure is improper.

Therefore, based on the arguments presented above, it is respectfully submitted that the rejection of Claims 1 and 13 is improper and it is respectfully requested that the rejection be withdrawn.

Further, it is respectfully submitted that Claims 1 and 13 are in condition for allowance. Without conceding the patentability per se of dependent Claims 2-12 and 14-30, they are likewise believed to be allowable by virtue of their dependence on Claims 1 and 13, respectively. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2-12 and 14-28 are respectfully requested.

In view of the preceding amendments and remarks, it is respectfully submitted that all pending claims, namely Claims 1-30 are in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Paul J. Farrell", is written over a horizontal line.

Paul J. Farrell
Reg. No. 33,494
Attorney for Applicant(s)

DILWORTH & BARRESE, LLP
333 Earle Ovington Blvd.
Uniondale, New York 11553
Tel: (516) 228-8484
Fax: (516) 228-8516
PJF/DMO/las